

Germany and the Erdogan Referendum: the Case for External Voting and Dual Citizenship

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Peter Spiro So 2 Apr 2017

Recent events have trained a spotlight on the politics of the large Turkish community in Germany and its relationship to both the German and Turkish states. Almost a million and a half Turkish citizens resident in Germany are eligible to cast absentee ballots in a Turkish referendum to scrap its parliamentary system, which could extend the rule of Recep Tayyip Erdogan through an institutionally fortified presidency by more than a decade. The run-up to the referendum had German authorities obstructing pro-Erdogan rallies, to which Erdogan himself responded with charges that the German government was engaging in “Nazi practices.”

The episode marks perhaps the most prominent and controversial example of external political campaigning since such activity has become normalized among states. In the wake of the referendum controversy, there have also been renewed calls by German politicians to revisit recently broadened acceptance of dual citizenship in Germany. Angela Merkel’s CDU looks to be making it a centerpiece issue in upcoming German parliamentary elections.

But it would be a mistake to limit either external campaigning or dual citizenship. As long as they conform to reasonable conditions consistent with freedom of expression, public political activities are an important element of globalized democracy. Attempts to suppress campaign rallies will be counterproductive. As for dual citizenship, it is a part of the solution, not part of the problem.

The Option Model and its Downsides

The number of states accepting dual citizenship has [dramatically increased over the past 25 years](#). Germany has lagged behind its European counterparts on the issue. Citizenship reform adopted in 1999 allowed those born with dual citizenship in Germany to retain it until reaching the age of 23, at which time the “option model” required a choice between the two citizenships. The option model was abandoned in 2014 just as it would have applied to large numbers of German-born Turk. Current German law permits the retention of dual citizenship into adulthood.

Conservative Germans are looking to revive the option model. This will be difficult to pull off. Nor will it help resolve the kind of conflict triggered by the Erdogan referendum.

While Germany has dragged its heels on dual citizenship for Turks, it has broadened acceptance for those with other nationalities. It has been accepted outright with respect to those who have nationality in other EU and EFTA countries. Those whose country of origin does not provide for termination of citizenship (Morocco and Iran are examples) are allowed to naturalize even though they cannot shed another nationality. It is possible in other contexts to secure approval of dual citizenship as a matter of administrative discretion. Native-born German citizens are typically allowed to retain German citizenship upon naturalization in another state upon a relaxed showing of continued connection to Germany. More than half of those naturalizing as Germans [are permitted to retain their citizenship of origin](#).

In the face of increased tolerance of the status in other quarters, it is difficult for Germans to claim a principled opposition to dual citizenship (something they could credibly do at one time). To reverse partial acceptance of the status vis à vis Turks would look discriminatory. Those currently holding the status would have to be grandfathered.

Nor would the reversal be easy to justify. Dual citizenship in migrant populations helps reflect and facilitate integration. Reviving the option model would put a price on retaining citizenship in the country of residence for the

large number of individuals born with Turkish citizenship in Germany. Germans living abroad are allowed dual citizenship at no price even as their self-governance interests are diluted by absence. German-born and German-resident Turks would have an incentive to abandon it, even though their self-governance interests are territorially determined and therefore high.

If the option model were reinstated, some number of German-born Turks would choose to retain Turkish nationality over German (something Erdogan himself would presumably advocate). Lacking political participation rights, those individuals would be less likely to socialize into German constitutional democracy. Rejecting dual citizenship retards political integration. This makes more not less likely the kind of conflicts on display in recent weeks over the referendum activities.

Voting from abroad

A number of prominent Turkish-Germans who have spoken out against the Erdogan referendum. Perhaps most politically prominent among German political figures of Turkish descent, Green Party parliamentarian Cem Ozdemir has [been outspoken in condemning Erdogan's power grab](#). Opposition by other Turkish citizens resident in Germany has been widely reported. That kind of opposition is much less evident in Turkey itself.

That points to the case for accepting the normalization of external political activities. External voting is becoming a commonplace of globalization. Where it was once restricted to a narrow range of diplomats and military personnel temporarily stationed abroad, many countries now permit and even facilitate voting by non-resident citizens. The trend has been pressed by external citizens who maintain interests in homeland governance, increasingly the case in the wake of globalization as migration looks more like a process than a destination. In many cases, external citizens have reason to care about political, economic, and cultural decision-making by homeland governments even as they live someplace else. As such, external voting enjoys a self-governance justification.

External voting is permissive, not mandatory (although some now frame the question in terms of equality among citizens, wherever located). Contingencies in some cases point away from extending the franchise to external citizens. For example, the massive Irish citizen diaspora would overwhelm the resident citizen vote if it were granted the franchise. Conditional qualifications are thus tenable, for instance, that an external citizen have been territorially resident at some point. But a state's decision to extend the vote to external citizens is its to make. Turkey's extension of the vote to external citizens can't be challenged by other states, Germany included.

In most cases, external voting goes unnoticed in host countries, either because the numbers are small or dispersed. Even when large numbers of eligible external voters are present in a single state, low turnout typically minimizes attention. Mexican voting in the United States has not triggered significant attention for that reason. Dominicans in the US vote at higher rates, but are concentrated in New York City. External voting for some countries is by mail or internet. Campaigning by foreign candidates has been treated as a curiosity to the extent it has attracted any attention. Canada appears alone in [barring external voting on its territory as a matter of government policy](#) (in other words, voting in foreign country elections by those individuals resident in Canada), a position it does not appear to police.

Campaigning by foreign candidates should be afforded the same treatment as other protected speech and political activity. There appears to be no principled basis for differential treatment. Under section 212(A)(3)(C) of the U.S. Immigration and Nationality Act, the government is [expressly precluded from barring the entry of a foreign government official or candidate](#) seeking admission to engage in speech activity (assuming the person is otherwise eligible for admission). Host-country protections may facilitate freer speech conditions than in the home country. This has been the case with the Erdogan referendum. In Germany, Turkish opponents of the ballot measure appear to have felt unconstrained in their criticism, even if a majority within the Turkish-German community is supportive of his regime. Attempting to suppress particular viewpoints may result in a backlash in favor of those positions. That may have been part of the fallout from provincial bans on Erdogan referendum rallies, especially since such efforts

were easily situated in the Erdogan anti-Europe narrative.

Of course, all political activity is subject to what U.S. law denominates as “time, place, and manner” restrictions. To the extent there are genuine security concerns, political speech activity can be constrained. In Europe, additional prohibitions on hate speech also apply to foreign political activity. But such standards should apply on the same basis they are applied to domestic political activity. In this respect, foreign political activity should be normalized.

This of course is no way to validate the Erdogan regime or the referendum, which should be held to all applicable human rights norms at home and abroad. But we must be careful not to frame transboundary citizenship norms on a politically contingent basis. Today, the Turkish-German community may support this regressive government. In coming years, it may shift to oppose it. Dual German-Turkish citizens could play an important part in that story.

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